



Appeal Decisions

Site visit made on 12 December 2023

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 21st February 2024

Appeal A: APP/A2335/W/23/3324540

1 The Lane, Sunderland Point, Morecambe, Lancashire LA3 3HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Nicole Hargreaves against the decision of Lancaster City Council.
 - The application Ref 22/01273/FUL, dated 12 October 2022, was refused by notice dated 30 March 2023.
 - The development proposed is installation of solar PV slates to the front elevation and erection of outbuilding to create ancillary accommodation in association with 1 The Lane.
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Appeal B: APP/A2335/Y/23/3324545

1 The Lane, Sunderland Point, Morecambe, Lancashire LA3 3HS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Miss Nicole Hargreaves against the decision of Lancaster City Council.
 - The application Ref 22/01274/LB, dated 12 October 2022, was refused by notice dated 30 March 2023.
 - The works proposed are the installation of solar PV slates to the front elevation and removal of first floor ceiling and installation of insulation at rafter level.
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Decision

1. Appeal A is dismissed insofar as it relates to the solar PV slates. Appeal A is allowed insofar as it relates to the erection of outbuilding to create ancillary accommodation in association with 1 The Lane at 1 The Lane, Sunderland Point, Morecambe, Lancashire LA3 3HS, in accordance with the terms of the application Ref 22/01273/FUL, dated 12 October 2022, so far as relevant to that part of the development hereby permitted and the plans submitted with it, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1884.P.1B, 1884.P.4B and 1884.P.5B except in respect of the replacement of the roof slates with GB sol or equivalent solar PV slates shown on plan no. 1884.P.4B.
 - 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

- 4) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 1 The Lane. In particular, it shall not be occupied, sold, disposed of or otherwise let as a separate dwelling.
2. Appeal B is dismissed insofar as it relates to the solar PV slates. Appeal B is allowed insofar as it relates to the removal of the first floor ceiling and installation of insulation at rafter level at 1, The Lane, Sunderland Point, Morecambe, Lancashire LA3 3HS, in accordance with the terms of the application Ref 22/01274/LB, dated 12 October 2022, so far as relevant to that part of the development hereby permitted and the plans submitted with it, and subject to the following conditions:
 - 1) The works hereby authorised shall begin not later than 3 years from the date of this decision.

Preliminary Matters

3. As the proposal is in a conservation area and relates to a listed building I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The revised National Planning Policy Framework (the Framework) was published on 20 December 2023, after the appeal was made. As the changes to the Framework are relevant to the appeal scheme, the main parties have been provided with the opportunity to comment on the implications of the changes for their cases. I have taken into account their further representations in this regard.
5. The applications subject of these appeals originally proposed solar panels to the roof. However, the Council accepted amended plans during the processing of the applications which removed the solar panels and instead proposed the installation of solar PV slates to the front elevation. Consequently, I have adopted the amended descriptions of the development and the works in the banner headings above and I have determined the appeals on the basis of the plans that were determined by the Council.

Main Issues

6. The main issues in the appeals are:
 - i) Whether the proposal would preserve a Grade II listed building, "1, The Lane" (Ref: 1164331) (the LB), and any of the features of special architectural or historic interest that it possesses, and the extent to which it would preserve or enhance the character or appearance of the Sunderland Point Conservation Area (the CA); and
 - ii) The effect of the proposal on the living conditions of neighbouring residential occupiers, with particular regard to private outdoor space.

Reasons

Heritage assets

7. Sunderland Point CA covers a large area of land encompassing the small linear settlement and the extensive undeveloped marshlands and fields that comprise the peninsula. The settlement is formed of two terraces, with houses in

neoclassical and Georgian style fronted by the remains of a Quay facing the Lune Estuary. The village originated as a transshipment point for Lancaster in the early 18th century, with most buildings established as warehouses. After falling out of use as a port, it was briefly a popular seabathing destination in the early 19th century, at which time many of the warehouses were converted into holiday accommodation. Given the above, I find that the significance of the CA, insofar as it relates to these appeals, to be primarily associated with its cohesive 18th century architectural character and its historic vernacular materials including sandstone walling and slate roofs.

8. The LB dates from the early to mid 18th century. It is a modest, detached two-storey building in sandstone rubble and a slate roof with stone gable copings and kneelers. It is thought to have been built as the brew house for the Ship Inn and Sambo, an African slave buried in unconsecrated ground nearby, is said to have died here in 1736. The LB is set back from the main street at the entrance to a yard to the rear of First Terrace. A continuous stone wall extends to the rear of the LB along The Lane. Given the above, I find that the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with its historic fabric and its unobtrusive and subservient siting relative to the First Terrace properties which is indicative of its historic status and use.
9. Internally, the existing first floor ceiling is a modern addition to the LB. Its removal would not result in the loss of historic fabric and would expose the historic roof truss and purlins. As an early brew house or warehouse, the LB would most likely have been open to the rafters. Consequently, the removal of the inauthentic, contemporary ceiling would enhance the architectural and historic interest of the LB.
10. The installation of solar PV slates would require the removal of the existing, historic roof slates. I note the suggestion that the removed slates could be stored locally for future reinstatement. However, the proposal would not be temporary and there is little certainty that the removed slates, even if they could be securely stored, would be reinstated. Irrespective, the removal of the historic roof slates from the LB would result in a loss of historic fabric.
11. While the solar slates might not have an overly reflective surface, nevertheless they would have a flat and uniform appearance. The artificial modern materials would not have the edge or surface irregularities, nor the colour and textural variations, exhibited by the traditional slate roof. There is little evidence that the colour of the solar slates would match the muted tones of the natural slates. The retention of a border of existing slates around the edges of the roof would not seamlessly integrate the solar slates into the roof, rather it would emphasize the discordancy between the artificial and the natural materials.
12. The submitted photographs of the LB suggest that the south roof slope, and therefore the solar slates, would not be visible from ground level. However, the affected roofscape is visible in oblique views from limited locations, including close to the junction of The Lane with First Terrace. In any case, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained. As such, I find that the replacement of the traditional roof materials with artificial photovoltaic materials would erode the historic and architectural interest of the LB. However, as a result of the limited visibility, the solar slates

would not be prominent in views and would thus not be capable of harming the wider character or appearance of the CA.

13. The outbuilding would be set well away from the LB, in a narrow gap between the electricity substation and the neighbouring residential garden at the end of the linear plot that extends along The Lane. It would be a narrow building, roughly 5.5m long and its pitched roof would continue forward to overhang a glazed gable end facing the garden. It would be finished in black corrugated sheeting with flush rooflights to both roof slopes and roof-mounted solar panels on its south elevation. The outbuilding would constitute a change to the wider setting of the LB. However, by virtue of its distance, scale and design and surrounding context, it would not undermine the architectural or historic legibility of the former status and use of the building.
14. Heading along The Lane towards First Terrace, the upper part of the gable end of the outbuilding would be briefly visible above the boundary wall in the gap between the neighbouring large garage building and the substation. However, the ridge line would finish roughly at the height of the substation roof. The limited visible extent of the outbuilding and its shallow roof pitch would be unremarkable in the surrounding built context.
15. From locations elsewhere in the public domain, the outbuilding would be screened from views by buildings, including the substation, and the tall stone boundary wall along The Lane. From private locations to the rear of Nos 10 and 11 First Terrace, ground level views of the outbuilding would be screened by the LB and the tall close-boarded garden boundary treatments. The outbuilding would likely be visible from upper floor habitable room windows in the rears of Nos 10 and 11. However, taking into account the distance involved, the scale of the proposal and the surrounding built context, the outbuilding would not be visually obtrusive in private views.
16. I note the Council's concerns in relation to the contrast of the black corrugated cladding with the vernacular materials used in the CA. However, the outbuilding would not be read in close juxtaposition with historic buildings. The limited views of a small extent of it above the stone boundary wall to the rear would not adversely affect the character or appearance of the CA, particularly taking into account the immediately surrounding mixed built environment. Moreover, the modest garden building would not be markedly out of keeping in the context of the varied outbuildings elsewhere in the area, including rendered single storey garages, painted wooden garden sheds and the Fish Hut beyond Second Terrace which is black with a corrugated roof.
17. Despite the harm that would be caused to the LB by the installation of the solar slates, I find the proposal would not be detrimental to the character or appearance of the CA. I have found that the outbuilding would be acceptable and the solar slates would have only limited prominence from either the public or the private domain. Unlike listed buildings, the significance of a CA is dependent upon how it is experienced. Case law¹ has established that proposals must be judged according to their effect on a CA as a whole and must therefore have at least a moderate degree of prominence. Given the above, I find that the proposal would not be detrimental to the CA and thus preserve its significance.

¹ South Oxfordshire DC v SSE & J Donaldson [1991] CO/1440/89

18. However, I find that the proposal would fail to preserve the special interest of the listed building. Consequently, in accordance with the Framework, I give this harm considerable importance and weight in the planning balance of these appeals.
19. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should have a clear and convincing justification. Given the scale and nature of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
20. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimal viable use. The removal of the first floor ceiling would be a limited public benefit. The outbuilding would be a private benefit. The solar slates would improve the energy efficiency of the LB and contribute to climate change adaptation more widely. This would be a significant private benefit but a limited public benefit, taking into account the scale of the proposal. There would be limited economic benefits during the works. In any event, the continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence.
21. The Framework attaches significant weight to the need to support energy efficiency and low carbon heating improvements to domestic buildings. Nevertheless, the policies that protect heritage assets continue to apply where a listed building would be affected. In this regard, as noted above, the Framework advises that the harm to the listed building should be given considerable weight in the planning balance. Consequently, the benefits are not sufficient to outweigh the harm that I have identified.
22. Given the above, I conclude that, on balance, the proposal would fail to preserve the special historic interest of the Grade II listed building. This would fail to satisfy the requirements of the Act, paragraph 205 of the Framework and conflict with policies DM29 and DM37 of A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD Adopted July 2020 (the DMDPD). These require, among other things, that proposals are well designed, having regard to local distinctiveness and the palette of materials, and that elements which contribute to the significance of listed buildings are conserved and where appropriate enhanced. As a result, the proposal would not be in accordance with the development plan.

Living conditions

23. The outbuilding would be set back from The Lane immediately adjacent to the tall close-boarded boundary fence shared with the residential garden of 11 First Terrace.
24. Taking into account the overhang of the roof to the front of the outbuilding, the proposal would extend along just under half of the shared boundary. The eaves of the building would be approximately 0.65m above the boundary fence. The

roof, while taller again, would have a shallow pitch and it would slope away from the boundary, thereby reducing the bulk of the building on the boundary.

25. The neighbouring garden appears to be largely laid to lawn, and there is an outbuilding in the north-west corner with windows including in the elevation facing towards the proposed outbuilding. The proposal would be visible above the boundary, including from the neighbours' outbuilding window. However, the window does not appear to serve a habitable room. Moreover, taking into account the orientation of the adjoining gardens and the overbearing nearby garage building, it seems unlikely that the narrow area of lawn between the neighbours' garden building and the proposal would be used intensively such as for the purposes of sitting out. Consequently, the proposal would not be detrimental to the neighbouring residential occupiers when using their garden.
26. Therefore, the proposal would not harm the living conditions of the neighbouring residential occupiers, with particular regard to overbearing on their private outdoor space. It would not conflict with the residential amenity aims of DMDPD policy DM29 in relation to avoiding significant detrimental impacts including in terms of overshadowing, visual amenity and massing. It would not conflict with the residential amenity aims of the Framework.

Other Considerations

27. I understand that there is no mains gas supply to Sunderland Point and the LB relies on electricity and a solid fuel stove for heating. I note the challenges facing the residents of Sunderland Point as a result of climate change. I also note that the appellant has explored and discounted alternative forms of renewable energy, including air source heat pump, due to the constraints of the LB. The proposed solar generation of electricity would improve the energy efficiency of the LB. This would be a benefit to the appellant. However, as the appellant notes, the wider public benefits of micro-generation are limited by the size of the installation. Moreover, the proposal would not have a discernible direct effect in terms of mitigating the climate risk to Sunderland Point.
28. Paragraph 163 of the Framework recognises that even small-scale projects provide a valuable contribution to significant cutting of greenhouse gas emissions. However, this relates to applications for renewable and low carbon development rather than to domestic solar panels, which are the subject of paragraph 164.
29. My attention has been drawn to the Royal Borough of Kensington and Chelsea, where solar panels are consented on most Grade II listed buildings without the need for listed building consent. However, I am not aware that the Council in this case has a similar planning order in place and the decisions and policies in other administrative areas do not provide a justification for the proposal.

Conditions

30. The Council has suggested planning conditions in the event the appeals are allowed. Insofar as the proposal relates to the removal of the first floor ceiling and the installation of insulation and the outbuilding, I have imposed the standard condition specifying the time limits. Conditions are also necessary to specify the approved plans and requiring details of external materials of the outbuilding, in the interests of certainty and visual amenity.

Conclusion

31. The proposal includes several distinct elements that are physically and functionally independent. In this regard, I find that the internal works to the LB and the erection of the outbuilding are acceptable and clearly severable from the installation of solar slates, which is unacceptable. Therefore, I propose to issue a split decision in the case of Appeal A and grant planning permission for the outbuilding but not the solar slates. In the case of Appeal B, I propose to grant listed building consent for the removal of the first floor ceiling and the installation of insulation, but dismiss the appeal insofar as it relates to the solar slates.
32. For the above reasons and having regard to all other matters raised, I conclude that both Appeal A and Appeal B are allowed in part and dismissed in part.

Sarah Manchester

INSPECTOR